

TRAFFIC AND MOTOR VEHICLES*

- Art. I. In General, § § 23-1— 23-20**
Art. II. Uniform Traffic Code, § § 23-21— 23-45
Art. III. Parking, Stopping and Standing, §§ 23-46 – 23-175
 Div. 1. Generally, § § 23-46 – 23-70
 Div. 2. Municipal Parking Lots, § § 23-71 – 23-100
 Div. 3. Shopping Center Parking Lots, § § 23-101 – 23-130
 Div. 4. Open Storage of Junked Vehicles, §§ 23-131 – 23-175
Art. IV. Emergency Response Reimbursement, § § 23-176 – 23-178

ARTICLE I. IN GENERAL

Sec. 23-1. State vehicle code adopted.

- (a) The Michigan Vehicle Code, 1949 PA300, MCL 257.1 to 257.923, is adopted by reference.
(b) References in the Michigan Vehicle Code to “local authorities” shall mean the City of Algonac.
(c) The city clerk shall publish Ordinance No. 2000-3, in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.
(d) The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the city may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than ninety-three (93) days.
(Ord. No. 2000-3, § 1, 3-21-00)

Editor’s note—Ord. No. 2000-3, § 1, adopted Mar. 21, 2000, pertained to the adoption of the Michigan Vehicle Code. Such ordinance did not specify manner of codification; hence, inclusion herein as § 23-1 was the discretion of the editor. In the event of conflict between this section and section 23-21, it is presumed the more recent provisions will prevail.

Secs. 23-2 – 23-20. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE†

Sec. 23-21. Adoption.

The Uniform Traffic Code for cities, townships and villages promulgated by the director of state police and published in the 1979 edition of the Michigan Administrative Code and

***Cross references**—Any ordinance prescribing traffic and parking restrictions pertaining to specific streets saved from repeal, § 1-9(13); offenses, Ch. 13; transporting or possessing alcoholic liquor in vehicle prohibited, § 13-158; conveyances and vehicles in parks, § 15-9; police, Ch 18; streets, sidewalks and other public places, Ch. 20; vehicles for hire, Ch. 25.

State law references—Michigan Vehicle Code, MCL 257.1 et seq., MSA 9.1901 et seq.; regulations by local authorities, MCL 257.605, 257.606, 257.610, MSA 9.2305, 9.2306, 9.2310.

†State law reference—Authority to adopt the Uniform Traffic Code by reference, MCL 257.951, MSA 9.265.

amendments as published in Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Act No. 62 of the Public Acts of Michigan of 1956 (MCL 257.951 et seq., MSA 9.2651 et seq.) as amended, is hereby adopted by reference as in this article modified.

Sec. 23-22. Reference to governmental unit.

References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "Governmental Unit" means the City of Algonac, Michigan.

Sec. 23-23. Amendments.

The following sections and subsections of the Uniform Traffic Code for cities, townships, and villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbered sections of the Uniform Traffic Code.

Section 1.001a is hereby amended to read:

**Sec. 1.001a. Ambulance.*

Ambulance means a privately or publicly owned motor vehicle for highway use which is specially designed or constructed and equipped, which is intended to be used for, and is maintained or operated for, the transportation of persons who are sick, injured, wounded, or otherwise incapacitated or helpless, including, dual purpose police patrol cars and funeral coaches or hearses, and which is equipped according to Part 203 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20301 et seq., MSA 14.15(20301) et seq.) as amended.

State law reference-Similar definition, MCL 257.1b, MSA 9.1801(2).

Section 1.002a is hereby added to read:

**Sec. 1.002a. Autocycle.*

Autocycle means an enclosed motorcycle that is equipped with safety belts, roll bar, windshield, wipers, steering wheel, and equipment otherwise required on a motorcycle and which has not more than three (3) wheels in contact with the roadway at any one (1) time.

State law reference-Similar definition, MCL 257.25a, MSA 9.1825(1).

Section 1.004 is hereby amended to read:

**Sec. 1.004. Bus.*

Bus means a motor vehicle which is designed to carry more than ten (10) passengers and which is used for the transportation of persons and also means a motor vehicle, other than a taxicab, which is designed and used for the transportation of persons for compensation. The term does not include a school bus or a bus that is equipped and used for living or camping purposes, or a motor vehicle which is used in a car pool, van pool, or a family passenger vehicle and which is designed to carry fifteen (15) persons or less.

State law reference-Similar definition, MCL 257.4b, MSA 9.1804(2).

Section 1.007a is hereby amended to read:

"*Sec. 1.007a. Controlled substance.*

Controlled substance means a controlled substance as defined by article 7 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq., MSA 14.15(7101) et seq.), as amended."

State law reference—Similar definition, MCL 257.8b, MSA 9.1808(2).

Section 1.007b is hereby added to read:

"*Sec. 1.007b. Conviction.*

Conviction means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court order of disposition for

a child found to be within the provisions of chapter XII of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, on a traffic law violation charge, regardless of whether the penalty is rebated or suspended.

State law reference-Similar definition, MCL 257.8a.

Section 1.010d is hereby added to read:

“Sec. 1.010d. Former section 625(1) or (2).

Former section 625(1) or (2) means section 625(1) or (2) as amended by Act. No. 391 of the Public Acts of 1978, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.”

State law reference-Similar definition, MCL 257.18.

Section 1.010e is hereby added to read:

“Sec 1.010e. Former section 625b.

Former section 625b means section 625b as amended by Act No. 285 of the Public Acts of 1976, Act No. 515 of the Public Acts of 1980, Act No. 309 of the Public Acts of 1982, or Act No. 109 of the Public Acts of 1987.”

State law reference-Similar definition, MCL 257.18.

Section 1.010f is hereby added to read:

“Sec. 1.010f. Former section 5.15(1), (2) or (5).

Former section 5.15(1), (2), or 5) means section 5.15(1), (2), or (5) of chapter 23-23 of the Code of Ordinances, as amended through December 31, 1991.”

Section 1.010g. is hereby added to read:

“Sec. 1010g. Former section 5.15a (1), (3), or (4).

Former section 5.15a (1), (3), or (4) means section 5.15a (1), (3), or (4) of chapter 23-23 of the Code of Ordinances, as amended through December 31, 1991.”

Section 1.014a is hereby added to read:

“Sec. 1.014a. Law of another state.

Law of another state means a loan or ordinance enacted by another state or by a local unit of government in another state.”

State law reference-Similar definition, MCL 257.24C.

Section 1.016 is hereby amended to read:

“Sec. 1.016. Moped.

Moped means a two (2) or three (3) wheeled vehicle which is equipped with a motor that does not exceed fifty (50) cubic centimeters piston displacement, produces two (2) brake horsepower or less, and cannot propel the vehicle at a speed greater than thirty (30) miles per hour on a level surface. The power drive system shall not require the operator to shift gears.”

State law reference-Similar definition, MCL 257.32b, MSA 9.1932(2).

Section 1.024 is hereby amended to read:

Sec. 1.024. Police officer.

Police officer means every sheriff or sheriff's deputy; village or township marshal; officer of the police department of any city, village or township; any officer of the Michigan state police; or any peace officer who is trained and certified pursuant to Act No. 203 of the Public Acts of Michigan of 1965 (MCL 28.601 et seq., MSA 4.450(1) et seq.) as amended.

State law reference-Similar definition, MCL 257.42, MSA 9.1842.

Section 1.025b is hereby amended to read:

“Sec. 1.025b. Prosecuting attorney.

Prosecuting attorney except as the context otherwise requires, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.”

State law reference-Similar definition, MCL 257.45a.

Section 1.031a is hereby amended to read:

“Sec. 1.031a. School bus.

School bus means every motor vehicle, except for a station wagon, with a manufacturer's rated seating capacity of seventeen (17) or more children which is owned by a public, private or governmental agency and which is operated for the transportation of children to or from school. The term also means a motor vehicle, except for a station wagon, that is privately owned and operated for compensation for the transportation of children to or from school. The term does not include a bus that is certified by the public service commission.”

State law reference-Similar definition, MCL 257.57, MSA 9.1857.

Section 2.5 is hereby amended to read;

“Sec. 2.5. Abandoned vehicle procedures.

(1) As used in this section, “abandoned vehicle” means a vehicle which has remained on public property or private property for a period of forty-eight (48) hours after a public agency or other governmental agency designed by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

- (i) The date and time the notice was affixed.
- (ii) The name and address of the police agency taking the action.
- (iii) The name and badge number of the police officer affixing the notice.

- (iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.
- (v) The year, make and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within forty-eighty (48) hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency after taking a vehicle into custody shall do all of the following:

- (a) Recheck to determine if the vehicle has been reported stolen.
- (b) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
- (c) Within seven (7) days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees by and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing a hearing within twenty (20) days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the town fees and daily storage fees by requesting a hearing.

A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to section 2.7a and 2.7b of this code. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within twenty (20) days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than twenty (20) days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than twenty (20) days after the date of the notice, the police agency shall offer the vehicle for a sale at a public sale pursuant to section 2.7c of this code.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.7c of this code, not less than thirty (30) days after public notice of the sale has been published.”

State law reference-Similar provisions, MCL 257.252a. MSA 9.1952(1).

Section 2.5a is hereby amended to read:

“Sec. 2.5a. Abandoned scrap vehicle procedures.

(1) As used in this section:

- (a) *Registered abandoned scrap vehicle* means a vehicle which meets all of the following requirements:
 - (i) Is on public or private property.
 - (ii) Is seven (7) or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 of the act would exceed the fair market value of that vehicle.
 - (iv) Is currently registered in this state or displays current year registration plates from another state.
 - (v) Is not removed within forty-eight (48) hours after a written notice as described in section 2.5(2) (b) of this code is affixed to the vehicle.

(b) *Unregistered abandoned scrap vehicle* means a vehicle which meets all of the following requirements:

- (i) Is on public or private property.
- (ii) Is seven (7) or more years old.
- (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 of this act, would exceed the fair market value of that vehicle.
- (iv) Is not currently registered in this state and does not display current year registration plates from another state.
- (v) Is not removed within forty-eight (48) hours after a written notice as described in section 2.5(2) (b) of this code is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take two (2) photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

- (i) The year, make and vehicle identification number if available.
- (ii) The date of abandonment.
- (iii) The location of abandonment.
- (iv) A detailed listing of the damage or the missing equipment.
- (v) The reporting officer's name and title.
- (vi) The location where the vehicle is being held.

(d) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within twenty-four (24) hours, excluding Saturday, Sunday and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsections (2) (b) and (c).

(5) The secretary of state shall retain the record relating to an abandoned scrap vehicle for not less than two (2) years. The two (2) photographs taken pursuant to subsection (2) (b) shall be retained by the police agency for not less than two (2) years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) The police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

- (a) Determine if the vehicle has been stolen.
- (b) Take two (2) photographs of the vehicle.
- (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
- (d) Within twenty-four (24) hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
- (e) Within seven (7) days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of police agency which has the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which request a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within twenty (20) days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to section 2.7a and 2.7b of this code. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing

and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within twenty (20) days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than twenty (20) days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than twenty (20) days after the date of the notice described in subsection (6) (e), the police agency shall follow the procedures established in subsections (3) to (5).

State law reference—Similar provisions, MCL 257.252b, MSA 9.1952(2).

Section 2.6 is hereby amended to read:

“Sec. 2.6. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the discretion of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within seven (7) days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5(4) (c)—(9) of this code shall apply.”

State law reference—Similar provisions, MCL 257.252c, MSA 9.1952(3).

Section 2.7 is hereby amended to read:

“Sec. 2.7. Vehicle removed by police.

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping

Safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

- (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public..
 - (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
 - (c) If a vehicle is parked in a posted tow away zone.
 - (d) If there is a reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
 - (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.
 - (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
 - (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impeded the movement of another vehicle.
- (2) The police agency after authorizing the removal of a vehicle under subsection (1) shall do all of the following:
- (a) Check to determine if the vehicle has been reported stolen;
 - (b) Within twenty-four (24) hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident;
 - (c) If the vehicle has not been redeemed within ten (10) days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within twenty-four (24) hours after the removal, and if the vehicle has not been redeemed within thirty (30) days and upon complaint from the towing service, the police agency shall send the notice within thirty (30) days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
 - (i) The year, make and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of police agency which has the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

- (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
- (ix) A warning that the failure to redeem the vehicle or to request a hearing within twenty (20) days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within twenty (20) days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to section 2.7a and 2.7b of this code. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within twenty (20) days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than twenty (20) days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than twenty (20) days after the date of the notice described in subsection (2) (c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.7c of this code.

(7) If the ownership of the vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.7c of this code, not less than thirty (30) days after public notice of the sale has been published."

State law reference-Similar provisions, MCL 257.252d, MSA 9.1952(4).

Section 2.7a is hereby added to read:

"Sec. 2.7a. Abandoned vehicle – Jurisdiction of court; towing and storage fees.

(1) The district court shall have jurisdiction to determine if the police agency has acted properly in processing a vehicle under sections 2.5, 2.5a(6) – (10), 2.6 or 2.7 of this code.

(2) The court specified in the notice prescribed in sections 2.5(3) (c), 2.5a(6), 2.6(4) or 2.7(2) (c) of this code, shall be the court which has territorial jurisdiction at the location from

where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act No. 236 of the Public Acts of Michigan of 1961 (MCL 600.8312, MSA 27A.8312), as amended.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under sections 2.5, 2.5a, 2.6 or 2.7 of this code shall be used to pay the towing and storage fees.”

State law reference-Similar provisions, MCL 257.252e, MSA 9.1952(5).

Section 2.7b is hereby added to read:

“Sec. 2.7b. Duties of court.

(1) Upon receipt of a petition prescribed in sections 2.5, 2.5a, 2.6 or 2.7 of this code, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

- (a) Schedule a hearing within thirty (30) days for the purpose of determining whether the police agency acted properly.
- (b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.7 of this code.

(3) After the hearing the court shall make a decision which shall include one or more of the following:

- (a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle removed under section 2.7 of this code, and an order providing a period of twenty (20) days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within twenty (20) days, the police agency shall dispose of the vehicle pursuant to section 2.5a or 2.7c of this code.
- (b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.7 of this code. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.
- (c) A finding that the towing and daily storage fees were reasonable.
- (d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.”

State law reference-Similar provisions, MCL 257.252f, MSA 9.1952(6).

Section 2.7c is hereby added to read:

“Sec. 2.7c. Same—Public sale.

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5 or 2.6 of this code or removed under section 2.7 of this code shall be conducted in the following manner:

- (a) It shall be under the control of the police agency or agent of the police agency.
- (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.
- (c) Except as provided by sections 2.5(9) and 2.7(7) of this code, it shall be held not less than five (5) days after public notice of the sale has been published.
- (d) The public notice shall be published at least once in a newspaper having a general circulation within the county. The public notice shall give a description of the vehicle for sale and shall state the time, date and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order or priority:

- (a) Towing and storage charged.
- (b) Expenses incurred by the police agency.
- (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
- (d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the city.

(3) If there are no bidders on the vehicle, the police agency may do one of the following:

- (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
- (b) Obtain title to the vehicle for the police agency or the city, by doing the following:
 - (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within fifteen (15) days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.”

State law reference-Similar provisions, MCL 257.252g, MSA 9.1952(7).

Section 2.8 is hereby added to read:

“Sec. 2.8. ‘Citation’ defined; numbering; form.

(1) As used in the following sections, “citation” means a complaint or notice upon which a police officer shall record an occurrence which involves one (1) or more vehicle law violations by the person cited. Each citation shall be numbered consecutively, shall be in a form by the person cited. Each citation shall be numbered consecutively, shall be in a form determined by the secretary of state, the attorney general, the state court administrator and the director of the department of state police, and shall consist of the following parts;

- (a) The original copy which shall be a complaint or notice to appear issued by the officer and which shall be filed with the court in which the appearance is to be made.
- (b) The first copy which shall be retained by the police agency.
- (c) The second copy which shall be delivered to the alleged violator if the violation is a misdemeanor.
- (d) The third copy which shall be delivered to the alleged violator if the violation is a civil infraction.

(2) With the prior approval of the state officials listed in subsection (1), the citation may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices. Use of a citation for other than moving violations is optional.

(3) For purposes of the act, a complaint signed by a police officer shall be treated as made under oath if the violation alleged in the complaint is either a civil infraction or a minor offense as defined in section 1 of chapter I of Act No. 175 of the Public Acts of Michigan of 1927 (MCL 761.1, MSA 28.843), and occurred or was committed in the signing officer’s presence or under circumstances permitting the officer’s issuance of a citation under sections 2.14 and 5.15 of this code, and if the complaint contains the following statement immediately above the date and signature of the officer:

‘I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.’ “

State law reference-Similar provisions, MCL 257.727c, MSA 9.2427(3).

Section 2.10 is hereby amended to read:

“Sec. 2.10. Issuance of citation for misdemeanor.

(1) When a person is arrested without a warrant for any violation of the act which is punishable as a misdemeanor, or for violation of a provision of this code which substantially corresponds to any provision of the act, under conditions not referred to in sections 5.4, 5.4a and 5.15 of this code, or sections 617, 619, and 727(1), (2), and (3) of the act (MCL 257.617, 257.619, 257.727(1), (2), (3); MSA 9.2317, 9.2319, 9.2427(1), (2), (3)), the arresting officer shall prepare, as soon as possible and as completely as possible, an original and three (3) copies of a written citation to appear in court which shall contain the name and address of such person, the offense charged, and the time and place when and where such person shall appear in court. The officer shall inform the offender of the violation and shall give the second copy of the citation to the

alleged offender. If such arrested person so demands, rather than being given a citation, the arrested person shall be taken before a magistrate or probate court which has jurisdiction.

(2) The time to appear in court which is specified in the citation shall be within a reasonable time after the arrest, unless the person arrested demands an earlier hearing.

(3) The place to appear in court which is specified in the citation shall be before a magistrate who has jurisdiction over the alleged offense charged in the citation.

(4) An appearance may be made in person, by representation, or by mail. When an appearance is made by representation or mail, the magistrate may accept the pleas of guilty or not guilty for purposes of arraignment with the same effect as though the person personally appeared before him. The magistrate, by giving five (5) days' notice of the date of appearance, may require an appearance in person at the time and place designated in the citation.

(5) When a person who is not a resident of this state is arrested without warrant for a violation of the act punishable as a misdemeanor, or of a provision of this code substantially corresponding to a provision of the act and punishable as a misdemeanor, under conditions not referred to in section 727 of the act (MCL 257.727, MSA 9.2427), the arresting officer, upon demand of the arrested person, immediately shall take the person before a magistrate of the vicinity to answer to the complaint made against the person. If a magistrate is not available or an immediate trial cannot be had, the person arrested may recognize to the officer for his appearance by leaving with the officer a guaranteed appearance certificate or a sum of money not to exceed one hundred dollars (\$100.00), in which case the following provisions apply:

- (a) The officer making the arrest shall give a receipt to the person arrested for the guaranteed appearance certificate or the moneys deposited together with a written citation as provided in subsection (1).
- (b) If the offender fails to appear as required in the citation, the guaranteed appearance certificate or deposit shall be forfeited as in other cases of default in bail in addition to any other penalty provided in this code.
- (c) The officer taking a certificate of deposit within forty-eight (48) hours thereafter, excluding Sundays, legal holidays and Saturdays when court is closed, shall deliver the certificate or deposit to the magistrate named in the citation together with a report of the facts relating to the arrest. Failure to make a report and deliver the deposit shall be embezzlement of public money.
- (d) "Guaranteed appearance certificate" means a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that the company, if the person whose signature appears on the card or certificate, and that the company, if the person fails to appear in court at the time of trial or sentencing or to pay any fines or costs imposed pursuant to this act, will pay any fine, costs, or bond forfeitures imposed on the person in a total amount not to exceed two hundred dollars (\$200.00)."

State law reference- Similar provisions, MCL 257.728(1) – (5), MSA 9.2428(1) – (5).

Section 2.10b is hereby amended to read:

“Sec. 2.10b. Police officer witnessing civil infraction; stop and detention, citation, purpose; pursuit outside jurisdiction.

(1) A police officer who witnesses a person violating the act or a provision of this code substantially corresponding to the act, which violation is a civil infraction, may stop the person, detain the person temporarily for purposes of making a record or vehicle check, and prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a written citation, which shall be a notice to appear in court for one (1) or more civil infractions. If a police officer witnesses a person violating the act or a provision of this code substantially corresponding to the act and that violation is a civil infraction, that police officer may pursue, stop, and detain the person outside the city for the purpose of exercising the authority and performing the duties prescribed in this section and section 2.10i of this code, as applicable.

(2) Any police officer, having reason to believe that the load, weight, height, length, or width of a vehicle or load are in violation of the provisions of sections 717, 719, 719a, 722, 724, 725, or 726 of the act which violation is a civil infraction, may require the driver of the vehicle to stop, and the officer may investigate, weigh, or measure the vehicle or load. If, after personally investigating, weighing, or measuring the vehicle or load, the officer determines that the load, weight, height, length, or width of the vehicle or load are in violation of the provisions of sections 717, 719, 719a, 722, 724, 725, or 726 of the act, the officer may temporarily detain the driver of the vehicle for purposes of making a record or vehicle check and issue a citation to the driver or owner of the vehicle as provided in those sections.

(3) A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable cause to believe that the person is responsible for a civil infraction in connection with the accident. A police officer may issue a citation to a person who is a driver of a motor vehicle when, based upon personal investigation by the police officer of a complaint by someone who witnesses the person violating the act or a provision of this code substantially corresponding to the act, which violation is a civil infraction, the officer has reasonable cause to believe that the person is responsible for a civil infraction and if the prosecuting attorney or attorney for the political subdivision approves in writing the issuance of the citation.

(4) The form of a citation issued under subsections (1), (2), or (3) shall be as prescribed in sections 2.8 and 2.10c of this code.

(5) The officer shall inform the person of the alleged civil infraction or infractions and shall deliver the third copy of the citation to the alleged offender.

(6) In a civil infraction action involving the parking or standing of a motor vehicle, a copy of the citation need not be served personally upon the defendant but may be served upon the registered owner by attaching the copy to the vehicle.

(7) If a parking violation notice other than a citation is attached to a motor vehicle, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by ordinance

for the violation are not paid at the parking violations bureau, a citation may be filed with the court in compliance with section 2.10 of this code and a copy of the citation may be served by first-class mail upon the registered owner of the vehicle at the owner's last known address. A parking violation notice may be issued by a police officer, including a limited duty officer, or other personnel duly authorized by the city to issue such a notice. The citation filed with the court pursuant to this subsection need not comply in all particulars with sections 2.8 and 2.10c of this code but shall consist of a sworn complaint containing the allegations stated in the parking violation notice and shall fairly inform the defendant how to respond to the citation.

(8) A citation issues under subsection (6) or (7) for a parking or standing violation shall be processed in the same manner as a citation issued personally to a defendant pursuant to subsection (1) or (3).

(9) As used in subsection (7):

(a) *Parking violation notice* means a notice, other than a citation, directing a person to appear at a parking violations bureau in the city to pay the fine and costs, if any, prescribed by ordinance for the parking or standing of a motor vehicle in violation of the ordinance.

(b) *Parking violations bureau* means a parking violations bureau established pursuant to section 8395 of Act No. 236 of the Public Acts of Michigan of 1961, as amended."

State law reference-Similar provisions, MCL 257.742, MSA 9.2442.

Section 2.10g is hereby amended to read:

"Sec. 2.10g. Civil infraction; formal hearings; procedure; fees; counsel; judgment.

(1) A formal hearing shall be conducted only by a judge of a court which has jurisdiction over civil infraction actions under section 2.10a of this code.

(2) In a formal hearing, the person cited may be represented by an attorney, but is not entitled to appointed counsel at public expense.

(3) Notice of a formal hearing shall be given to the prosecuting attorney or city attorney who represents the plaintiff. That attorney shall appear in court for a formal hearing and that attorney shall be responsible for the issuance of a subpoena to each witness for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid to a witness in advance of a formal hearing.

(4) There shall not be a jury trial in a formal hearing.

(5) If the judge determines by a preponderance of the evidence that the person cited is responsible for a civil infraction, the judge shall enter an order against the person as provided in section 907 of the act (MCL 257.907, MSA 9.2607). Otherwise, a judgment shall be entered for the defendant, but the defendant shall not be entitled to cost of the action."

State law reference-Similar provisions, MCL 257.747, MSA 9.2447.

Section 2.10i is hereby amended to read:

"Sec. 2.10i. Compelling person to appear; additional costs.

(1) When a person who is not a resident of this state is stopped for a civil infraction pursuant to section 2.10b of this code, the police officer making the stop shall take that person's driver's license as security for the nonresident's appearance in court and satisfaction of any order which may be issued under section 907 of the act and shall issue to that person a citation as provided in sections 2.8 and 2.106 of this code. At or before the completion of his tour of duty a police officer taking the driver's license shall deliver the driver's license either to the court named in the citation or to the police chief or person authorized by the police chief to receive citations and driver's licenses. The police chief or person authorized shall deposit the driver's license and citation with the court in the same manner as prescribed for citations in section 2.15 of this code. Failure to deliver the license shall be considered contempt of court. If the person does not have a license in immediate possession in violation of section 301 of the act or a license or the receipt described in section 311a of the act in violation of section 311 of the act, the officer shall arrest that person pursuant to section 727(4) of the act.

(2) In lieu of the officer's taking of the license under subsection (1) or before appearance in court, the person stopped may recognize to the officer or to the court for his appearance by leaving with the officer or court a guaranteed appearance certificate or a sum of money not to exceed one hundred dollars (\$100.00).

(3) If a magistrate is available for an immediate appearance upon demand of the person stopped, the officer immediately shall take the nonresident driver before the magistrate to answer to the civil infraction alleged. Upon entry of an admission of responsibility for the civil infraction, with or without explanation, or upon completion of an informal hearing, the defendant's license shall be returned if judgment is entered for the defendant, if any adverse judgment entered against the defendant is satisfied, or if the defendant leaves with the court a guaranteed appearance certificate or a sum of money not to exceed one hundred dollars (\$100.00) as security for payment of any fines or costs ordered. If the nonresident defendant requests a formal hearing, the hearing shall be scheduled as provided in section 2.10g but the defendant's license shall be retained by the court until final resolution of the matter unless the defendant leaves with the court the guaranteed appearance certificate or deposit as provided in subsection (2) as security for appearance at the scheduled formal hearing.

(4) The officer receiving a guaranteed appearance certificate or deposit of money under subsection (2) shall give a receipt to the person stopped for the guaranteed appearance certificate or the money deposited together with the written citation required under subsection (1).

(5) At or before the completion of his tour of duty a police officer taking a certificate of deposit of money shall deliver the certificate or deposit of money and the citation either to the court named in the citation, or to the police chief or person authorized by the police chief to receive certificates or deposits. The police chief or person authorized shall deposit the certificate or the money deposited and the citation with the court in the same manner as prescribed for citations in section 2.15 of this code. Failure to deliver the money deposited shall be embezzlement of public money.

(6) If the person who posts a certificate or deposit fails to appear as required in the citation or for a scheduled formal hearing, the court having jurisdiction and venue over the civil infraction shall enter a default judgment against the person, and the guaranteed appearance certificate or money deposited shall be forfeited and applied to any civil fine or costs ordered pursuant to section 907 of this act.

(7) For purposes of this section, *guaranteed appearance certificate* means a card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that the company, if the person fails to appear in court at the time of a scheduled informal or formal hearing or to pay any fine or costs imposed pursuant to section 907 of this act, will pay any fine, costs, or bond forfeiture imposed on the person in a total amount not to exceed two hundred dollars (\$200.00)."

State law reference-Similar provisions, MCL 257.749, MSA 9.2449.

Section 2.15 is hereby amended to read:

"Sec. 2.15. Citations; disposition of copies.

(1) At or before the completion of his tour of duty a police officer to whom a citation book has been issued and who has recorded the occurrence of a vehicle law violation upon a citation shall deliver to his police chief or to a person duly authorized by the police chief to receive citations all copies of such citation duly signed. The police chief or a person duly authorized by the police chief shall deposit the original of the citation with the court having jurisdiction over the offense not later than three (3) days after the date of the citation, excluding Saturdays, and legal holidays.

(2) The citation shall be considered to have been deposited with the court as required under subsection (1) if the original of the citation is mailed not later than two (2) days after the date of the citation as specified under this subsection. Mailing shall be accomplished by enclosing the original of the citation in a sealed envelope with first class postage fully prepaid, addressed to the court, with depositing the envelope and contents in the United States government mail.

(3) If a citation is spoiled, mutilated, or voided, it shall be endorsed with a full explanation thereof by the police officer voiding the citation, and shall be accounted for to the police officer's police chief or an authorized designee of the police chief.

(4) Nothing in the act shall prevent a person other than a police officer from applying for a criminal complaint for a vehicle law violation which is not a civil infraction, and that person need not show that the alleged offender has been issued a citation in connection with the offense."

State law reference-Similar provisions, MCL 257.728a, MSA 9.2428(1).

Section 2.17a is hereby amended to read:

"Sec. 2.17a. Falsification of illegal disposition of citations; penalties.

Whoever knowingly falsifies a citation, copies of a citation, or a record of the issuance of a citation; disposes of a citation, copy, or record in a manner other than as required in this code;

attempts to falsify or dispose of a citation, copy, or record; or attempts to incite or procure another to falsify or dispose of a citation, copy, or record shall be guilty of a misdemeanor."

State law reference—Similar provisions, MCL 257.728d, MSA 9.2428(4).

Section 2.17c is hereby amended to read:

"Sec. 2.17c. Procedure upon arrest for certain offenses.

When a person is arrested without a warrant in any of the following cases, the arrested person shall, without unreasonable delay, be taken before a magistrate who is nearest or most accessible within the judicial district as provided in section 13 of chapter IV of the code of criminal procedure, Act No. 175 Public Acts of Michigan of 1927 (MCL 764.13, MSA 28.871(1)), or, if a minor, taken before the probate court:

- (1) When the person is arrested under section 5.15 of this code.
- (2) When a person is arrested under section 5.14 of this code. If under the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed in such cases as provided in section 2.10 of this code.
- (3) When a person arrested does not have in his immediate possession a valid operator's or chauffeur's license or the receipt described in section 311a of the act (MCL 257.311a, MSA 9.2011(1)). If the arresting officer otherwise satisfactorily determines the identity of the person and the practicability of subsequent apprehension in the event of the person's failure to voluntarily appear before a designated magistrate or probate court as directed, the officer may release the person from custody with instructions to appear in court, given in the form of a citation as prescribed by section 2.10 of this code."

State law reference—Similar provisions, MCL 257.727, MSA 9.2427.

Section 4.21 is hereby amended to read:

"Sec. 4.21. Bicycle paths; motorized vehicle prohibited.

(1) A person shall not operate a motorized vehicle (except for maintenance purposes) upon or across a bicycle path except to enter or leave adjacent property.

(2) A person shall not park a motorized vehicle upon a bicycle path."

Section 5.15 is hereby amended to read:

"Sec. 5.15. Operating or authorizing or knowingly permitting another person to operate a motor vehicle while under the influence of intoxicating liquor or controlled substance or combination thereof or with blood alcohol content of 0.10 percent or more prohibited; operating a motor vehicle while visibly impaired prohibited; operation of a motor vehicle by a person less than twenty-one (21) years of age with any bodily alcohol content prohibited, sanctions for violations of subsection (1), (2), (3), or (4).

In the judgment of sentence under this section, the court may order vehicle immobilization as provided in section 5.62(d).

(6) If a person is convicted for violating subsection (1) the person is guilty of a misdemeanor punishable by one (1) or more of the following:

- (a) Community service for not more than forty-five (45) days.
- (b) Imprisonment for not more than ninety-three (93) days.
- (c) A fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

(7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or both.

(8) A person who is convicted of violating subsection (3), is guilty of a misdemeanor punishable by one (1) or more of the following:

- (a) Community service for not more than forty-five (45) days.
- (b) Imprisonment of not more than ninety-three (93) days.
- (c) A fine of not more than three hundred dollars (\$300.00).

(9) If a person is convicted of violating subsection (4), all of the following apply:

- (a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by one (1) or more of the following:
 - (i) Community service for not more than forty-five (45) days.
 - (ii) A fine of not more than two hundred fifty dollars (\$250.00).
- (b) If the violation occurs within seven (7) years of one (1) or more prior convictions, the person may be sentenced to one (1) or more of the following:
 - (i) Community service for not more than sixty (60) days.
 - (ii) A fine of not more than five hundred dollars (\$500.00).
 - (iii) Imprisonment of not more than ninety-three (93) days.

(10) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 776.22.

(11) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(12) If a person is charged with a violation of subsection (1) or (3), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.

(13) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(14) Except as otherwise provided in subsection (15), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(15) A special verdict described in subsections (13) and (14) is not required if a jury is instructed to make a finding solely as to either of the following:

- (a) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(16) If a jury or court finds under subsection (13), (14), or (15) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:

- (a) Report the finding to the secretary of state.
- (b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed.

(17) Except as otherwise provided by law, a record described in subsection (16)(b) is a public record and the department of state police shall retain the information contained on that record for not less than seven (7) years.

(18) In a prosecution for a violation of subsection (4), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence."

State law reference—Similar provisions, MCL 257.625.

Section 5.15a is hereby amended to read:

"Sec. 5.15a. Arresting operator of vehicle involved in accident while in violation of section 23-23, section 5.15(1) or (3); requiring operator to submit to preliminary chemical breath analysis; provisions applicable to chemical tests and analyses other than preliminary chemical breath analysis; introduction of other competent evidence; making chemical test results available to person charged or attorney; offering test results as evidence; presumptions; admissibility of person's refusal to submit to chemical test.

(1) A peace officer, without a warrant, may arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of the accident, the operator of a vehicle involved in the accident in the city while in violation of section 5.15(1) or (3) of the Code of Ordinances.

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in the city and that the person, by the consumption of intoxicating liquor, may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis. The following provisions shall apply with respect to a preliminary chemical breath analysis:

- (a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.
- (b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15(1) or (3) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
- (c) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of MCL 257.625c, 257.625e, 257.265f and sections 5.15c, 5.15d, 5.15e of section 23-23 of the Code of Ordinances for the purposes of chemical tests described in those sections.
- (d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

- (a) The amount of alcohol or presence of a controlled substance or both in a driver's blood at the time alleged as shown by chemical analysis of the persons' blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

- (b) A person arrested for a crime described in section 5.15(1) or (3) of section 23-23 of the Code of Ordinances shall be advised of all of the following:
 - (i) That if he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer one of the chemical tests; that the results of the test are admissible in a judicial proceeding as provided under the Algonac Code of Ordinances and MCL 257.625 et seq., and shall be considered with other competent evidence in determining the innocence or guilt of the defendant; and that he or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
 - (ii) That if he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain such a court order.
 - (iii) That his or her refusal of the request of a peace officer to take a test described in subparagraph (i) shall result in the suspension of his or her operator's or chauffeur's license or operating privilege, and in the addition of six (6) points to his or her driver record.
- (c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.
- (d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in MCL 257.675c(1) or 5.15(1) or (3) of section 23-23 of the Code of Ordinances. A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests described in this subsection within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the sample.
- (e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample shall

be admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person has been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

- (f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the state police.
- (4) The provisions of subsection (3) relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether or not a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had a blood alcohol content of 0.10 percent or more by weight of alcohol.
- (5) If a chemical test described in subsection (3) is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least two (2) days before the day of the trial. The results of the test shall be offered as evidence by the prosecution in the trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.
- (6) The amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:
 - (a) If there was at the time 0.07 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.
 - (b) If there was at the time in excess of 0.07 percent but less than 0.10 percent by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) of section 23-23 of the Code of Ordinances due to the consumption of intoxicating liquor.
 - (c) If there was at the time 0.10 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(7) A persons' refusal to submit to a chemical test as provided in subsection (3) shall be admissible in a criminal prosecution for a crime described in section 5.15(1) or (3) for the purpose of showing that a test was offered to the defendant, but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly."

State law reference—Similar provisions, MCL 257.625a.

Section 5.15b is hereby deleted.

"Sec. 5.15b. *Reserved.*"

Section 5.15c is hereby amended to read:

"Sec. 5.15c. *Consent to chemical tests; persons not considered to have given consent to withdrawal of blood; administration of tests.*

(1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within the city, is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood, if the person is arrested for a violation of section 5.15(1) or (3) of section 23-23 of the Code of Ordinances.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered according to the provisions of MCL 257.625a(3) or section 5.15a(3) of section 23-23 of the code of Ordinances."

State law reference—Similar provisions, MCL 257.625c.

Section 5.15d is hereby amended to read:

"Sec. 5.15d. *Refusal to submit to chemical test; court order; report to secretary of state; form.*

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section MCL 257.625a(3) or section 5.15a(3) of section 23-23 of the Code of Ordinances a test shall not be given without a court order, but the officer may seek to obtain a court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in MCL 257.625c(1) or section 5.15(1) or (3) of section 23-23 of the Code of Ordinances and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state."

State law reference—Similar provisions, MCL 257.625d.

Section 5.15e is hereby amended to read:

"Sec. 5.15e. *Duties of police officer if person refuses chemical test or if test reveals blood alcohol content of 0.10 percent or more.*

(1) If a person refuses a chemical test offered pursuant to section 5.15a or submits to a chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

- (a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
- (b) Except as provided in subsection (2), immediately do all of the following:
 - (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 5.15d to the secretary of state.
 - (ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
 - (iii) Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to section 5.15a that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to take the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

(3) A temporary license or permit issued under this section is valid for one of the following time periods:

- (a) If the case is not prosecuted, for ninety (90) days after issuance or until the person's license or permit is suspended by the secretary of state pursuant to MCL 257.625(f), whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.
- (b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:

- (a) If the person tested is less than twenty-one (21) years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

- (b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (c) If the person tested is not a person described in subsection (a) or (b), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine."

State law reference—Similar provisions, MCL 257.625e.

Section 5.15f is hereby amended to read:

"Sec. 5.15f. Failure to request.

(1) If the person who refuses to submit to a chemical test pursuant to section 5.15d of this code does not request a hearing within fourteen (14) days of the date of notice pursuant to section 5.15e of this code, the secretary of state shall suspend the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for a period of six (6) months, or for a second or subsequent refusal within a period of seven (7) years, for one (1) year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall deny to the person the issuance of a license or permit for a period of six (6) months, or, for a second or subsequent refusal within a period of seven (7) years, for one (1) year.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same condition as provided in section 322 of the act (MCL 257.322, MSA 9.2022). At least ten (10) days' notice of the hearing shall be mailed to the person requesting the hearing, to the police officer who filed the report under section 5.15d of this code, and, if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer shall be authorized to administer oaths, issue subpoenas for the attendance of necessary witnesses, and may grant a reasonable request for an adjournment. The hearing shall cover only the following issues:

- (a) Whether the police officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1) of this code.
- (b) Whether the person was placed under arrest for a crime described in section 5.15c(1) of this code.
- (c) Whether the person reasonably refused to submit to the test upon the request of the officer.
- (d) Whether the person was advised of the rights under sections 5.15a and 5.15c of this code.

(3) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.286, MSA 3.560(186)). Upon notification of the filing of a petition for judicial review pursuant to section 323 of the act (MCL 257.323, MSA 9.2023), the hearing officer shall transmit to the

court in which the petition was filed, not less than ten (10) days before the matter is set for review, the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether or not the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After the hearing, the secretary of state may suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the persons involved for a period of six (6) months, or, for a second or subsequent refusal within seven (7) years, for one (1) year. If the person involved is a resident without a license or permit to operate a vehicle in the state, the secretary of state may deny to the person the issuance of a license or permit for a period of six (6) months, or, for a second or subsequent refusal within seven (7) years, for one (1) year. The person involved may file a petition in the circuit court of the county to review the suspension or denial as provided in section 323 of the act (MCL 257.323, MSA 9.2023).

(5) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department of state shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he has a license to operate a motor vehicle."

State law reference—Similar provisions, MCL 257.625f, MSA 9.2325(6).

Section 5.15g is hereby amended to read:

"Sec. 5.15g. Uniform standards for administration of blood tests.

The department of state police may promulgate uniform rules for the administration of chemical tests for the purposes of the act and this code."

State law reference—Similar provisions, MCL 257.625g, MSA 9.2325(7).

Section 5.15h is hereby added to read:

"Sec. 5.15h. Preliminary chemical breath analysis.

(1) A police officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public, including an area designated for the parking of vehicles, in the city and that the person by the consumption of alcoholic liquor may have affected his ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis.

(2) A police officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(3) The results of a preliminary chemical breath analysis shall be admissible in a criminal prosecution for a crime enumerated in section 5.15a(1) of this code or in an administrative hearing under section 5.15f of this code, solely to assist the court or hearing officer in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(4) A person who submits to a preliminary chemical breath analysis shall remain subject to the requirements of sections 5.15a, 5.15c, 5.15d, 5.15e and 5.15f of this code for the purposes of chemical tests described in those sections.

(5) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer is responsible for a civil infraction.

(6) Section 5.15g of this code shall apply to a preliminary chemical breath analysis."
State law reference—Similar provisions, MCL 257.625h, MSA 9.2325(8).

Section 5.16a is hereby added to read:

"Sec. 5.16a. Transportation or possession of alcoholic liquor in container open or uncapped or upon which seal broken; violation punishable as a misdemeanor; nonapplicability.

(1) Except as provided in subsection (2), a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in the City of Algonac.

(2) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this state, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(3) Person who violates this section is guilty of a misdemeanor, punishable by a term of imprisonment of not more than ninety (90) days and a fine of not more than one hundred dollars (\$100.00), or both.

(4) This section does not apply to a passenger in a chartered vehicle authorized to operate by the Michigan Department of Transportation."

State law reference—Similar provisions, MCL 257.624a.

Section 5.16b is hereby amended to read:

"Sec. 516b. Consumption of alcoholic liquor on a highway, public place, or area generally accessible to motor vehicles, including area designated for parking of vehicles; violation punishable as a misdemeanor.

(1) A person shall not consume alcoholic liquor upon a highway, street, alley, or any public or private property which is open to the general public and which is not licensed to sell alcoholic liquor for consumption on the premises, or within the passenger compartment of a moving vehicle upon a highway or in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in the city.

(2) Person who violates this section is guilty of a misdemeanor, punishable by a term of imprisonment of not more than ninety (90) days and a fine of not more than one hundred dollars (\$100.00), or both."

Section 5.16c is hereby deleted.

Section 5.62a is hereby amended to read:

"Section 5.62a. Operators or chauffeur's license; suspension, revocation, or denial; penalty for operation of vehicle.

(1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in Michigan Compiled Laws section 257.212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking or motor vehicles, within this city.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows: For a first violation, by imprisonment for not more than ninety-three (93) days or a fine of not more than five hundred dollars (\$500.00), or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace office.

(4) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(5) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(6) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in MCL 257.212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied

for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted, under this act, while any of those conditions existing is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than three (3) days or more than ninety-three (93) days or a fine of not more than one hundred dollars (\$100.00), or both.

(7) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again."

Section 5.62b is amended in its entirety to read as follows:

"Sec. 5.62b. Impounding vehicle; conviction of violation while license suspended, revoked, denied; punishment; punishment for second or subsequent violation.

(1) When a person is convicted of an offense punishable under MCL 257.904(1)(b) or (c) for operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the court shall order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not less than a period the court orders but not more than one hundred twenty (120) days from the date of judgment.

(2) When a person is convicted of an offense punishable under MCL 257.904(1)(a) for operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the court may order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not more than one hundred twenty (120) days from the date of judgment.

(3) An order for the impounding of a motor vehicle issued pursuant to this section is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes.

(4) The owner of a motor vehicle impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him or her. The vehicle shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vehicle is not returned as provided in this section within thirty (30) days after the time set in the impoundment order for return of the vehicle, the vehicle shall be considered an abandoned vehicle and disposed of as provided under the Michigan Motor Vehicle Code.

(5) This section does not affect the rights of a conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another person as owner who becomes subject to this act."

State law reference—Similar provisions, MCL 257.904b.

Section 5.62c is added to read as follows:

"Sec. 5.62c. Detention of driver; vehicle immobilization; temporary vehicle registration plate.

(1) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following:

- (a) Immediately confiscate the vehicle's registration plate and destroy it.
- (b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the secretary of state for temporary registration plates issued under section MCL 257.226a OR .226b.
- (c) Place the temporary vehicle registration plate on the vehicle in the manner required by the secretary of state.
- (d) Notify the secretary of state through the law enforcement information network in a form prescribed by the secretary of state that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(2) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges."

Section 5.62d is added to read as follows:

"Sec. 5.62d. Vehicle immobilization, violations of 5.15; suspension, revocation, or denial of license; prior suspensions.

- (1) For a violation of section 5.15, the following apply:
 - (a) For a violation of section 5.15(1), (3), (4), or (5), the court may order vehicle immobilization for not more than one hundred eighty (180) days.
 - (b) For a second violation of section 5.15(1), (3), (4), or (5), in any combination arising out of separate incidents, the court shall order vehicle immobilization for not less than twenty-four (24) days or more than one hundred eighty (180) days.
 - (c) For a third or subsequent violation of section 5.15 (1), (3), (4), or (5) in any combination arising out of separate incidents, the court shall order vehicle immobilization for not less than six (6) months or more than three (3) years.
- (2) For a suspension, revocation, or denial under section 5.62, the following apply:
 - (a) For one (1) prior suspension, revocation, or denial within the past seven (7) years, the court may order vehicle immobilization for not more than one hundred eighty (180) days.
 - (b) For any combination of two (2) or three (3) prior suspensions, revocations, or denials within the past seven (7) years, the court shall order vehicle immobilization for not less than ninety (90) days or more than one hundred eighty (180) days.
 - (c) For any combination of four (4) or more prior suspensions, revocations, or denials within the past seven (7) years, the court shall order vehicle immobilization for not less than one (1) year or more than three (3) years.

(2) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.

(3) The court shall not order vehicle immobilization under this section if the defendant is not the owner or lessee of the vehicle operated during the violation unless the owner or lessee knowingly permitted the vehicle to be operated in violation of section 5.15 or section 5.62a regardless of whether a conviction resulted.

(4) An order required to be issued under this section shall not be suspended.

(5) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.

(6) This section does not apply to any of the following:

- (a) A suspension, revocation, or denial based on a violation of the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.
- (b) For a suspension, revocation, or denial under section 5.62a, an individual who has no currently effective suspension or denial under section 321a of the Michigan Motor Vehicle Code or who has one (1) currently effective suspension or denial under section 321a of the code but has never violated a condition of that suspension or denial, and who has no other suspensions or revocations or denials under this act.
- (c) A vehicle that is registered in another state or that is a rental vehicle.
- (d) Any of the following:
 - (i) A violation of chapter II of the Michigan Motor Vehicle Code.
 - (ii) A violation of chapter V of the Michigan Motor Vehicle Code.
 - (iii) A violation for failure to change address.
 - (iv) A parking violation.
 - (v) A bad check violation.
 - (vi) An equipment violation.
 - (vii) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.
 - (viii) A violation of a local ordinance substantially corresponding to a violation described in subparagraphs (i) to (vii).

(8) As used in this section, "vehicle immobilization" means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 904e."

Section 5.62e is added to read as follows:

"Sec. 5.62e. Vehicle immobilization; available technology to prevent operation of vehicle; removal or tampering with immobilization devices; penalties.

(1) A court shall order a vehicle immobilized under section 5.62(d) by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating section 5.15 or a suspension, revocation, or denial under section 5.62(a) to pay the cost of immobilizing and storing the vehicle.

(2) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3(3)(a) of the use tax act, 1937 PA 94, MCL 205.93 without a court order.

(3) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.

(4) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than one hundred dollars (\$100.00), or both.

(6) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.

(7) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.

(8) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required."

Section 5.63 is hereby amended to read:

"Sec. 5.63. Possession and display of license; violation as misdemeanor.

(1) Every driver shall have his operator's or chauffeur's license, or the receipt described in section 311a of the act (MCL 257.311a, MSA 9.2011(1)), in his immediate possession at all times when operating a motor vehicle and shall display the license on demand of any police officer, who shall identify himself as such.

(2) The violation of this section is punishable as a misdemeanor."

State law reference—Similar provisions, MCL 257.311, MSA 9.2011.

Section 5.76 is hereby amended to read:

"Sec. 5.76. Cowl or fender lamps; running board courtesy lamps; backing lights; lamps or reflectors; flashing, rotating or oscillating lights; warning lamps; violation as civil infraction or misdemeanor.

(1) A motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit an amber or white light without glare.

(2) A motor vehicle may be equipped with not more than one (1) running board courtesy lamp on side which shall emit a white or amber light without glare.

(3) Backing lights of red, amber, or white may be mounted on the rear of a motor vehicle if the switch controlling the light is so arranged that the light may be turned on only if the vehicle is in reverse gear. The backing lights when unlighted shall be covered or otherwise arranged so as not to reflect objectionable glare in the eyes of a driver of a vehicle approaching from the rear.

(4) A lamp or reflector on a vehicle, other than those expressly required or permitted by this code, if visible from the front, shall display or reflect a white or amber light; if visible from either side, shall display an amber or red light; and if visible from the rear, shall display or reflect a red light, except as otherwise provided by law.

(5) The use or possession of flashing, oscillating or rotating red, blue or amber lights is prohibited except under the following circumstances:

- (a) A police vehicle shall be equipped with flashing, rotating or oscillating red or blue lights, for use in the performance of police duties.
- (b) A fire vehicle or ambulance available for public use or for use of the United States, the state, or any unit of the state, whether publicly or privately owned, shall be equipped with flashing, rotating or oscillating red lights and used as required for safety.
- (c) A school bus shall be equipped with flashing red lights which shall be actuated by the driver only when the school bus is stopped or stopping on a highway pursuant to section 682 of the act (MCL 257.642, MSA 9.2382). A school bus may also be equipped with a flashing, oscillating or rotating light mounted on the roof of the bus approximately six (6) feet from the rear of the vehicle which displays a white light to the front, side, and rear of the bus which light may be actuated by the driver for use only in inclement weather such as fog, rain, or snow, or when the school bus is stopped or stopping on a highway pursuant to section 682, or where conditions hinder the visibility of the school bus.
- (d) If authorized by the department of state police, a private motor vehicle owned by a volunteer or paid firefighter, a volunteer ambulance driver, or a licensed ambulance driver or attendant, or an emergency support vehicle used exclusively for emergencies and owned and operated by a federally recognized nonprofit charitable organization

may be equipped with flashing, rotating, or oscillating red lights for use when responding to an emergency call if when in use the flashing, rotating, or oscillating red lights are mounted on the roof section of the vehicle, either as a permanent installation or by means of suction cups or magnets and are clearly visible in a three-hundred-sixty-degree arc from a distance of five hundred (500) feet when in use. A person operating lights under this subdivision, at any time other than when responding to an emergency call, is guilty of a misdemeanor.

- (e) Flashing, rotating or oscillating amber lights, placed in a position as to be visible throughout an arc of three hundred sixty (360) degrees, shall be used by a state, county, or municipal vehicle engaged in the removal of ice, snow, or other material from the highway and in other operations designed to control ice and snow.
- (f) A vehicle used to perform public utility service, an automobile service car or wrecker, a vehicle engaged in authorized highway repair or maintenance, a vehicle of a police officer, a vehicle operated by a rural letter carrier, a vehicle utilized for snow removal, a private security guard vehicle as authorized in subsection (7), or a farm tractor may be equipped with flashing, rotating, or oscillating amber lights. However, a wrecker may be equipped with flashing, rotating, or oscillating red lights which shall be activated only when the wrecker is engaged in removing or assisting a vehicle at the scene of a traffic accident or disablement. The flashing, rotating, or oscillating amber lights shall not be activated except in those circumstances that the warning produced by the lights is required for public safety.
- (g) A police vehicle, an ambulance, or a fire vehicle may display a flashing, rotating, or oscillating white light in conjunction with an authorized emergency light as prescribed in this section.
- (h) A private motor vehicle of a physician responding to an emergency call may be equipped with and the physician may use flashing, rotating, or oscillating red lights mounted on the roof section of the vehicle either as a permanent installation or by means of magnets or suction cups and clearly visible in a three-hundred-sixty-degree arc from a distance of five hundred (500) feet when in use. The physician shall first obtain written authorization from the county sheriff.
- (i) A person engaged in the manufacture, sale, or repair of flashing, rotating, or oscillating lights governed by this subsection may possess the lights for the purpose of employment, but shall not activate the lights upon the highway unless authorized to do so under subsection (6).

(6) A person shall not sell, loan, or otherwise furnish a flashing, rotating, or oscillating blue or red light designed primarily for installation on an authorized emergency vehicle to a person except a police officer, sheriff, deputy sheriff, authorized physician, volunteer or paid firefighter, volunteer ambulance driver, licensed ambulance driver or attendant of the state, a county or municipality within the state, a person engaged in the business of operating an ambulance or wrecker service, or a federally recognized nonprofit charitable organization which owns and operates an emergency support vehicle used exclusively for emergencies. This subsection does not prohibit an authorized vehicle, equipped with flashing, rotating, or oscillating blue or red lights, from being operated by a person other than a person described in this section, if the person receives authorization to operate the emergency vehicle from a police officer, sheriff, authorized physician, volunteer or paid firefighter, volunteer ambulance driver, licensed ambulance driver or attendant, a person operating an ambulance or wrecker service, or a federally recognized nonprofit charitable organization which owns and operates an emergency support vehicle used exclusively for emergencies, except that the authorization shall not permit the person to operate lights as described in subsection (5) (a), (b), (d), (g), or (h), or to exercise the privileges described in section 3.7 of this code. A person who operates an authorized emergency vehicle in violation of the terms of an authorization is guilty of a misdemeanor.

(7) A private motor vehicle of a security guard agency or alarm company licensed pursuant to Act No. 330 of the Public Acts of Michigan of 1968 (MCL 338.1051, MSA 18.185(1) et seq.) as amended, may display flashing, rotating, or oscillating amber lights. The flashing, rotating, or oscillating amber lights shall not be activated on a public highway when a vehicle is in motion.

(8) This section shall not be construed to prohibit, restrict, or limit the use of lights authorized or required under sections 697, 697a, and 698a of the act (MCL 257.697, 257.697a and 257.68a, MSA 9.2397, 9.2397(1) and 9.2398(1), as amended.

(9) A person who violates subsection (1), (2), (3) or (4) is responsible for a civil infraction."

State law reference-Similar provisions, MCL 257.698, MSA 9.2398.

Section 5.81 is hereby amended to read:

"Sec. 5.81. Windshield; obstructions; cleaning devices; wipers; additional equipment; violations as civil infraction.

No person shall drive any motor vehicle with the window so damaged or with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle so as to obstruct the driver's clear view of the street, or any intersecting street, or with any dangling ornament or other suspended object, except as authorized by law, which in any way obstructs the vision of the driver of the vehicle. No person shall drive any motor vehicle without first removing snow, ice, or frost from the front windshield, side or rear windows of such vehicle."

State law reference-Similar provisions, MCL 257.709, MSA 9.2409.

Section 5.82 is hereby added to read:

“Sec. 5.82. Mandatory child restraints; violation as civil infraction.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.) as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a restraint system as follows:

- (a) Any child less than one (1) year of age in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213.
- (b) Any child one (1) year of age or more but less than four (4) years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213.
- (c) Any child one (1) year of age or more but less than four (4) years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213, unless the child is secured by a safety belt provided in the motor vehicle.

(2) This section does not apply to a nonresident driver transporting a child in this state or to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under section 710b of the act (MCL 257.7. MSA 9.2410(2)) or federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.) as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.”

State law reference-Similar provisions, MCL 257.710d, MSA 9.2410(4).

Section 5.97 is hereby amended to read:

“Sec. 5.97. School buses; signs; overtaking, meeting, or passing; violation as misdemeanor; discharge of passengers, signal lights; mirror; evidence of violations; violation as civil infraction.

(1) A school bus shall be painted and shall contain signs on the back and front of the school bus, as approved by the state transportation department and the superintendent of public instruction.

(2) The driver of a vehicle that overtakes or meets a school bus which has stopped and which is displaying two (2) alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than ten (10) feet from the school bus and shall not proceed

until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights, shall permit stopped traffic to proceed, and shall, when resuming motion, proceed in a manner that will allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety.

(3) Passengers who cross a road upon being discharged from a school bus shall cross in front of the stopped school bus.

(4) At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper, but not more than ten (10) miles an hour, and shall proceed with caution for the safety of passengers being received or discharged from the school bus.

(5) This section shall be enforceable if signs giving notice of the local traffic regulation are posted on or at the entrance to the area, or part of the area, affected as may be most appropriate or sufficiently legible as to be seen by an ordinarily observant person.

(6) The driver of a vehicle who fails to stop for a school bus as required by subsections (2) to (5) or who passes a school bus in violation of subsections (2) to (5) is guilty of a misdemeanor.

(7) A school bus driver shall not stop the bus for the purpose of receiving or discharging passengers unless the bus is completely visible in its stopped position to approaching or overtaking drivers of vehicles for a distance of at least four hundred (400) feet.

(8) The driver of a vehicle on a highway that has been divided into two (2) roadways by leaving an intervening space, by a physical barrier, or by clearly indicated dividing sections constructed so as to impede vehicular traffic need not stop upon meeting a school bus which has stopped across the dividing space, barrier or section.

(9) A school bus, in addition to other equipment and distinctive marking required by law, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable. The lamps shall be capable of displaying to the front two (2) alternately flashing red lights located at the same level. The lights shall have sufficient intensity to be visible from a distance of not less than five hundred (500) feet in normal sunlight and shall be actuated by the driver of the school bus when, but only when, the vehicle is stopped and for a distance of not less than two hundred (200) feet in advance of a stop for the purpose of receiving or discharging school children.

(10) A school bus shall be equipped with a mirror, convex in shape, which is not less than seven and one-half (7½) inches in diameter and which is firmly mounted at hood or fender top height in front of the bus. The mirror shall be located on either the left or right side of the bus in a manner so that the seated driver may observe the road from the front bumper forward to the point where direct observation is possible.

(11) In a proceeding for a violation of subsection (2), proof that the particular vehicle described in the citation, complaint or warrant was in violation of subsection (2), together with proof that the defendant named in the citation, complaint or warrant was, at the time of

the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(12) Except as otherwise provided in subsection (2), a person who violates this section is responsible for a civil infraction. A violation of subsection (2) is a misdemeanor.”

State law reference-Similar provisions, MCL 257.682, MSA 9.2382.

Section 6.23 is hereby amended to read:

“Sec. 6.23. Motorcycles; protective helmet required; violation as civil infraction.

A person operating or riding on a motorcycle and any person less than nineteen (19) years of age operating a moped on a public thoroughfare shall wear a crash helmet on his head. Crash helmets shall be approved by the department of state police. This section does not apply to a person operating or riding in an auto cycle if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.”

State law reference-Similar provisions, MCL 257.658(4), MSA 9.3200(10).

Section 8.10 is hereby amended to read:

“Sec. 8.10. Parking prohibited in specified places.

(1) A vehicle shall not be parked, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of the police officer or traffic control device, in any of the following places:

- (a) On a sidewalk;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within fifteen (15) feet of a fire hydrant;
- (e) On a crosswalk;
- (f) Within twenty (20) feet of a crosswalk or if there is not a crosswalk, then within fifteen (15) feet of the intersection of property lines at an intersection of highways;
- (g) Within thirty (30) feet of the approach to a flashing beacon, stop sign, or traffic control signal located at the side of a highway;
- (h) Between a safety zone and the adjacent curb or within thirty (30) feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking;
- (i) Within fifty (50) feet of the nearest rail of a railroad crossing;
- (j) Within twenty (20) feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within seventy-five (75) feet of the entrance if properly marked by an official sign;
- (k) Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic;

- (l) On the roadway side of a vehicle stopped or parked at the edge or curb of a street;
- (m) Upon a bridge or other elevated highway structure or within a highway tunnel;
- (n) At a place where an official sign prohibits stopping or parking;
- (o) Within two hundred (200) feet of an accident at which a police officer is in attendance;
- (p) In front of a theater;
- (q) In a place or in a manner which blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building;
- (r) In a place or in a manner which blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building;
- (s) In a parking space clearly identified by an official sign as being reserved for use by handicappers which is on public property or private property available for public use, unless the person is a handicapper as described in section 1.1012b of this code or unless the person is parking the vehicle for the benefit of a handicapper. In order for the vehicle to be parked in the parking space the vehicle shall display one (1) of the following:
 - (i) A certificate of identification issued under section 675(5) of the act (MCL 257.675(5), MSA 9.2375(5)) to a handicapper on the lower left corner of the front windshield.
 - (ii) A special registration plate issued under section 803d of the act (MCL 257.803d, MSA 9.2503(4)) to a handicapper.
 - (iii) A similar certificate of identification issued by another state to a handicapper.
 - (iv) A similar special registration plate issued by another state to a handicapper.
- (t) In violation of an official sign restricting the period of time for or manner of parking;
- (u) In a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure, if the allowable time for parking indicated on the meter has expired;
- (v) On a street in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States postal service.

(2) A person who violates this section is responsible for a civil infraction."

State law reference—Similar provisions, MCL 257.674, MSA 9.2374.

Section 10.14. Operation of snowmobile registered in another state or Canada is hereby repealed.

(Ord. No. 92-04, §§ 1—12, 2-18-92; Ord. No. 93-01, 3-16-93; Ord. No. 99-5, §§1—7, 11-2-99)

Secs. 23-24—23-45. Reserved.

ARTICLE III. PARKING, STOPPING AND STANDING*

DIVISION 1. GENERALLY

Sec. 23-46. Unlawful parking on private property; penalty.

(a) It shall be unlawful for any person to park any motor vehicle on any private property without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property. Written complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent, or trustee of such property.

(b) A violation of this section shall constitute a municipal civil infraction as defined in section 1-2 of this Code of Ordinances.

(Ord. No. 153, §§ 5, 6, 7-17-79; Ord. No. 96-03, § 6, 1-9-96)

Secs. 23-47—23-70. Reserved.

DIVISION 2. MUNICIPAL PARKING LOTS

Sec. 23-71. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle means every vehicle that is self-propelled.

Municipal parking lot means any area owned or leased by the city and designated for the parking of motor vehicles by the public.

(Ord. No. 156, § 1, 6-17-80)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 23-72. Speed limit.

No person shall operate any motor vehicle in a parking area at a speed in excess of ten (10) miles per hour.

(Ord. No. 156, § 2(a), 6-17-80)

Sec. 23-73. Unattended vehicles.

No person shall leave any vehicle unattended for a period in excess of twenty-four (24) hours in a municipal parking lot without first obtaining a permit therefor from the police department.

(Ord. No. 156, § 2(b), 6-17-80)

***State law reference**—Authority to regulate the standing or parking of vehicles, MCL 257.606(1)(a), MSA 9.2306(1)(a).

Sec. 23-74. Unnecessary noise.

No person shall operate any motor vehicle in a municipal parking lot with unnecessary noise, or start, move or turn such motor vehicle, or apply the brakes or the power on the motor vehicle, or in any manner operate it so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.

(Ord. No. 156, § 2(c), 6-17-80)

Sec. 23-75. Loitering; disorderly conduct.

It shall be unlawful for any individual to loiter or otherwise act in a disorderly manner in a municipal parking lot.

(Ord. No. 156, § 3(a), 6-17-80)

Sec. 23-76. Alcoholic liquor.

It shall be unlawful for any individual to consume alcoholic liquors or to possess an alcoholic liquor in a container that is open, uncapped or upon which the seal is broken, in a municipal parking lot; provided, however, that the city council may, by resolution, waive this provision for purposes of special events approved by the Michigan Liquor Control Commission.

(Ord. No. 156, § 3(b), 6-17-80; Ord. No. 2000-4, § 1, 6-6-00)

Sec. 23-77. Penalties.

(a) A violation of any provision of sections 23-72 through 23-74 shall be deemed a civil infraction punishable by a fine not to exceed twenty-five dollars (\$25.00).

(b) A violation of any provision of sections 23-75 and 23-76 shall be a misdemeanor punishable by a fine not exceeding one hundred dollars (\$100.00) and reasonable costs, or by imprisonment in the county jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 156, § 4, 6-17-80)

Secs. 23-78—23-100. Reserved.**DIVISION 3. SHOPPING CENTER PARKING LOTS****Sec. 23-101. Finding of fact; authority for division.**

The city council does hereby determine and declare the regulation of traffic control and other uses of shopping center parking areas to be a matter involving the safety and well being of the residents of this city and accordingly does hereby enact the following regulations in conformity with Act No. 235 of the Public Acts of Michigan of 1969 (MCL 257.941 et seq., MSA 9.2641 et seq.), as amended.

(Ord. No. 153, § 1, 7-17-79)

Sec. 23-102. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- Motor vehicle* means every vehicle that is self-propelled.
 - Parking area* means any area near or contiguous to a shopping center and used by the public as a means of access to and egress from the stores and business establishments at the shopping center and free parking of motor vehicles of the patrons of the shopping center.
 - Shopping center* means a minimum area of three (3) acres of land on which there is provided public parking facilities.
- (Ord. No. 153, § 2, 7-17-79)
- Cross reference**—Definitions and rules of construction generally, § 1-2.

Sec. 23-103. Traffic-control regulations and devices.

The chief of police, working in cooperation with the owners or directors of a shopping center is hereby authorized to designate parking spaces, loading zones, traffic lanes, prohibited areas and limited parking areas within the parking area of a shopping center and to erect or cause to have erected and to maintain, at the expense of the owner, holder, occupant, lessee, agent or trustee, any stop signs, yield right-of-way signs or other traffic-control devices as he shall deem necessary to implement this division. No person shall drive or park a motor vehicle in violation of any traffic-control order or traffic-control device as may be established pursuant to this section.

(Ord. No. 153, § 3(a), 7-17-79)

Sec. 23-104. Speed limit.

No person shall operate any motor vehicle in a parking area at a speed in excess of ten (10) miles per hour.

(Ord. No. 153, § 3(b), 7-17-79)

Sec. 23-105. Unattended vehicles.

No person shall leave any vehicle unattended for a period in excess of eight (8) hours in a parking area unless the vehicle bears an employee identification sticker.

(Ord. No. 153, § 3(c), 7-17-79)

Sec. 23-106. Unnecessary noise.

No person shall operate any motor vehicle in a parking area with unnecessary noise or start, move or turn such motor vehicle,

or in any manner operate it so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.

(Ord. No. 153, § 3(d), 7-17-79)

Sec. 23-107. Exclusive use; disruptions.

Use of shopping center parking areas is expressly reserved for patrons of the shopping center businesses. It shall be unlawful for any individual to loiter or otherwise act in a disorderly manner in a shopping center parking area.

(Ord. No. 153, § 4(a), 7-17-79)

Sec. 23-108. Alcoholic liquor.

It shall be unlawful for any individual to consume alcoholic liquors in a shopping center parking area or to possess an alcoholic liquor in a container that is open, uncapped or upon which the seal is broken, in a shopping center parking area.

(Ord. No. 153, § 4(b), 7-17-79)

Cross reference—Offenses pertaining to alcoholic liquors, § 13-131 et seq.

Sec. 23-109. Penalties.

(a) A violation of any provision of sections 23-103 through 23-106 shall be deemed a civil infraction punishable by a fine not exceeding twenty-five dollars (\$25.00).

(b) A violation of any provision of sections 23-107 and 23-108 shall be a misdemeanor punishable by a fine not exceeding one hundred dollars (\$100.00) and reasonable costs, or by imprisonment in the county jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 153, § 6, 7-17-79)

Secs. 23-110—23-130. Reserved.

DIVISION 4. OPEN STORAGE OF JUNKED VEHICLES

Sec. 23-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dismantled and partially dismantled motor vehicle means a motor vehicle from which some part that is ordinarily a component of such motor vehicle has been removed or is missing.

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle or portion thereof which is occupied in whole or in part as the home, residence, living or sleeping place, or which is intended to be occupied by one (1) or more persons, either permanently or transiently.

Inoperable motor vehicle means a motor vehicle that by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

Motor vehicle means any wheeled vehicle that is self-propelled or intended to be self-propelled.

Unlicensed motor vehicle means a motor vehicle not having current state license plates or registration.

(Ord. No. 141, § 3, 11-12-74)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 23-132. Dismantled, partially dismantled or inoperable motor vehicles or parts.

It is hereby declared to be unlawful for any person to store on, place on or permit to be stored or placed on or allow to remain on any platted or unplatted parcel of land, a dismantled, partially dismantled or inoperable motor vehicle, or unlicensed motor vehicle or any parts of a motor vehicle unless located in a licensed junk or salvage yard, unless such partially dismantled motor vehicle or parts of a motor vehicle shall be kept in a wholly enclosed garage or other wholly enclosed structure. However, any bona fide owner, co-owner, tenant or co-tenant may store, permit to be stored or allow to remain on the premises of which he is the owner, co-owner, tenant or co-tenant, any one such dismantled, partially dismantled or inoperable motor vehicle, for a period of not to exceed fourteen (14) days if such motor vehicle is registered in his name, and further, any such owner, co-owner, tenant or co-tenant may, in the event of hardship, upon payment of the fee provided in this division, secure a permit from the city manager to extend such period of fourteen (14) days for an additional period of not to exceed thirty (30) days or any one such dismantled, partially dismantled or inoperable motor vehicle if such motor vehicle is registered in his name. This division shall not be construed to permit parking or placing of dismantled or partially dismantled vehicles on any street area in the city or in any front yard, as now or hereafter defined by the city zoning ordinance.

(Ord. No. 141, § 1, 11-12-74)

Sec. 23-133. Permits.

Upon application duly made by the registered owner of a motor vehicle and upon showing of hardship, the city manager is hereby authorized to issue the permits pursuant to this division. A fee as prescribed by resolution of the city council for each such permit issued shall be collected and shall be paid into the general fund.

(Ord. No. 141, § 2, 11-12-74)

Sec. 23-134. Interpretation.

This division shall not be deemed to be in conflict with other provisions of this Code relating to rubbish, litter, garbage, refuse, trash or junk but shall be construed as supplementary to any such provisions as well as any statutes of the state relating thereto.

(Ord. No. 141, § 4, 11-12-74)

Sec. 23-135. Nuisance.

The presence of a dismantled, partially dismantled or inoperable motor vehicle or parts of a motor vehicle on any platted or unplatted parcel of land in violation of the terms of this division is hereby declared to be a public nuisance.

(Ord. No. 141, § 5, 11-12-74)

Secs. 23-136—23-175. Reserved.**ARTICLE IV. EMERGENCY RESPONSE REIMBURSEMENT*****Sec. 23-176. Definitions.**

The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them:

(a) *Emergency response* shall mean:

- (1) The providing, sending and/or utilizing public service, police, fire fighting, and/or rescue services by the City of Algonac to an accident involving a motor vehicle where one (1) or more of the drivers were operating the motor vehicle while under the influence of an alcoholic liquor or any controlled substance or the combined influence of an alcoholic liquor and any controlled substance; or
- (2) The making of a traffic stop and arrest by a police officer when the driver was operating a motor vehicle while under the influence of an alcoholic liquor or any controlled substance.

(b) *Expense* for an emergency response under this section shall include the following:

- (1) The salaries or wages, including overtime pay, of law enforcement personnel associated with an emergency response, including arresting an individual, processing the person after arrest, preparing reports on the arrest, investigating

***Editor's note**—Ord. No. 95-01, §§ 2—4, adopted Oct. 17, 1995, enacted provisions pertaining to emergency response reimbursement. Such ordinance did not specify manner of codification; hence, designation as Art. IV, §§ 23-176—23-178, has been at the discretion of the editor.

Cross references—Offenses pertaining to alcoholic liquor and controlled substances, § 13-121 et seq.; impaired driving, § 23-23; municipal parking lot regulations, § 23-76; shopping center parking lot regulations, § 23-108.

the incident, and collecting and analyzing evidence, including the administration, provision and analysis of any chemical tests to determine blood alcohol content or the presence of a controlled substance.

- (2) The charges levied by the fire department and emergency medical services personnel, for time spent responding to and providing fire fighting, rescue, and emergency medical services, and for medical supplies lost or expended, in relation to an emergency response set forth in subsection (a)(1) or (a)(2) above.
- (3) All legal costs, including attorney fees and the payment of city personnel to attend court hearings, incurred by the city in prosecuting charges filed as a result of an emergency response.

(Ord. No. 95-01, § 2, 10-17-95)

Sec. 23-177. Liability for expense of an emergency response.

(a) *Person responsible:* Any person who, while under the influence of an alcoholic liquor or any controlled substance or the combined influence of an alcoholic liquor and any controlled substance, operates a motor vehicle which results in an emergency response as defined in this section shall be responsible and/or liable for the expenses of the emergency response.

(b) *Presumptions:* For the purpose of this section, a person is under the influence of an alcoholic liquor or controlled substance, or the combined influence of an alcoholic liquor and any controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while under the influence of an alcoholic liquor is a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of seven-one-hundredths of one percent (0.07%).

(c) *Charge against person:* The expenses incurred by the city as a result of an emergency response shall be charged to the person liable for the expenses under the terms of this section. The charge constitutes a debt of that person and is collectible by the city in the same manner as in the case of an obligation under a contract, expressed or implied.

(d) *Cost recovery schedule:* The City of Algonac shall, by resolution, adopt a schedule of costs specifying the expenses associated with an emergency response. This schedule shall be available to the public from either the city clerk or the chief of police or his/her designee.

(e) *Billing:* The chief of police, or his/her designee, may within ten (10) days of receiving itemized costs, or any part thereof, incurred by the city for an emergency response, submit a bill for the costs by first class mail or personal service to the person liable for the expenses as enumerated under this section. The bill(s) shall require full payment in thirty (30) days from the date of service.

(f) *Failure to pay; procedure to recover costs:* Any failure by the person described in this section as liable for the expense of an emergency response, to pay the bill within thirty (30) days of service shall be considered a default. In case of default, the City of Algonac may commence a civil suit to recover the expenses and any costs allowed by law.
(Ord. No. 95-01, § 3, 10-17-95)

Sec. 23-178. Conflict with criminal laws.

Nothing in this section shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge under the Michigan Vehicle Code, or Uniform Traffic Code, on a driver for operating a motor vehicle under the influence of an alcoholic liquor and/or a controlled substance.
(Ord. No. 95-01, § 4, 10-17-95)